

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

**TONYA STEVENSON and
GREGORY STEVENSON,**

Plaintiffs,

v.

WELLS FARGO BANK, N.A.,

Defendant.

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Civil Action No. **3:12-CV-3032-L-BK**

ORDER

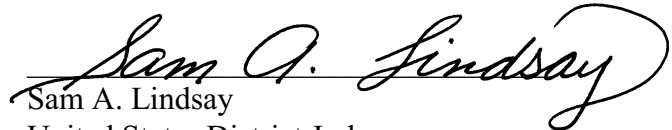
Before the court is Defendant's Motion for Summary Judgment, filed November 26, 2012, and the Findings, Conclusions and Recommendation of the United States Magistrate Judge ("Report") entered by Magistrate Judge Renee Harris Toliver on April 23, 2013, recommending that Defendant's Motion for Summary Judgment be granted. The magistrate judge also recommended that Defendant's request for attorney's fees under the deed of trust be denied without prejudice. Although the magistrate determined that Defendant was entitled to attorney's fees incurred in this action pursuant to the deed of trust, she was unable to determine from the affidavit submitted by Defendant's counsel whether the amount of requested attorney's fees was reasonable. The magistrate judge therefore recommended that the request for fees be denied without prejudice subject to resubmission of proof of the attorney's fees incurred and the reasonableness of such fees. Subsequently, on April 25, 2013, Defendant submitted a supplemental Statement of Attorney's Fees and Costs accompanied by evidence to support its request for attorney's fees. No objections were filed to the Report.

Plaintiffs Tonya Stevenson and Gregory Stevenson (“Plaintiffs”) originally filed this action on August 7, 2012, in the 162nd District Court, Dallas County, Texas, asserting claims against Defendant Wells Fargo Bank, N.A. (“Defendant”) for negligence, negligent misrepresentation, and injunctive relief. Plaintiffs’ claims stem from Defendant’s foreclosure of Plaintiff’s property. Defendant removed the case to federal court on August 20, 2012, and moved for summary judgment on November 26, 2012.

Having reviewed Defendant’s motion, the parties’ briefs, the record, applicable law, and the findings and conclusions of the magistrate judge, the court determines that the findings and conclusions as to Defendant’s Motion for Summary Judgment are correct, and **accepts** them as those of the court. The court **grants** Defendant’s Motion for Summary Judgment and dismisses **with prejudice** Plaintiffs’ claims for negligence and negligent misrepresentation. The court’s ruling as to Plaintiff’s claims moots their request for request injunctive relief, and it is therefore **denied as moot**.

Although the magistrate judge recommended that Defendant’s request for attorney’s fees be denied without prejudice subject to resubmission of proof of the attorney’s fees incurred and the reasonableness of such fees, the court determines that, in light of the record at the time of the Report and the supplemental Statement of Attorney’s Fees and Costs filed by Defendant in support of its request for attorney’s fees after the Report was issued, it can reasonably determine the amount of attorney’s fees that were incurred and should be awarded. The court therefore **rejects** the findings and conclusions of the magistrate judge as to Defendant’s request for attorney’s fees and will enter a separate order addressing Defendant’s request in this regard. Pursuant to Rule 58 of the Federal Rules of Civil Procedure, the court will also enter a judgment by separate document.

It is so ordered this 23rd day of May, 2013.


Sam A. Lindsay
United States District Judge